

LOWER PASSAIC RIVER FFS/PROPOSED PLAN

EPA OSWER PRESENTATION
MARCH 18, 2014

PARTIES REPRESENTED TODAY

V&E



1951

- DIAMOND ALKALI OPERATED THE 80 LISTER FACILITY

1969

1967

- SHAMROCK OIL & GAS AND DIAMOND ALKALI MERGED FORMING DIAMOND SHAMROCK

1983

- MAXUS FORMED: DIAMOND CORP. REORGANIZATION
- MAXUS=DIAMOND'S ENERGY BUSINESS
- DIAMOND SHAMROCK CHEMICALS=DIAMOND'S CHEMICAL BUSINESS

1986

- TIERRA SOLUTIONS FORMED

1986

- OCCIDENTAL ACQUIRED DIAMOND SHAMROCK CHEMICALS CO.

PARTIES REPRESENTED TODAY

V&E



OCCIDENTAL CHEMICAL CORPORATION



MAXUS: ENERGY COMPANY HAS BEEN RESPONDING TO PASSAIC RIVER CERCLA ISSUES ON OCCIDENTAL'S BEHALF SINCE 1986

TIERRA: ENVIRONMENTAL MGT. FIRM MANAGES MAXUS' LEGACY LIABILITIES

MAXUS & TIERRA: AFFILIATE COMPANIES



TO DATE, MAXUS HAS SPENT APPROXIMATELY

\$300MM ON BEHALF OF OCCIDENTAL
RESPONDING TO DIAMOND ALKALI SUPERFUND SITE

1

**FFS REMEDY IS INCONSISTENT WITH THE
NATIONAL CONTINGENCY PLAN**

2

**FFS PROCESS TO SELECT REMEDY RAISES
CERCLA POLICY CONCERNS**

3

FFS REMEDY SELECTION PROCESS IS FLAWED

4

SITE WAS NOT PROPERLY DESIGNATED

FFS PROCESS INCONSISTENT WITH NCP

V&E

FFS ORIGINS

- NO MENTION OF FFS PROCESS IN NCP
- FFS PROCESS A CREATURE OF GUIDANCE NOT LAW
- FFS PROCESS DEVELOPED TO FACILITATE STREAMLINED APPROACHES AT FEDERAL FACILITIES

NOT APPLICABLE TO MEGA SITES

- PRECEDENTS INVOLVE SITES REQUIRING MINIMAL SITE-SPECIFIC TECHNICAL ANALYSIS
- FFS NOT INTENDED FOR MEGA SEDIMENT SITES WITH COMPLEXITY OF PASSAIC

INCOMPLETE RI/FS

- INCONSISTENT WITH NCP TO SELECT FFS REMEDY WHEN RI/FS SO CLOSE TO COMPLETION
- FFS SELECTS A REMEDY DESPITE MANY UNANSWERED QUESTIONS:
- *DISTRIBUTION AND REDISTRIBUTION OF CONTAMINATION*
- *CANNOT VALIDATE MOST EFFECTIVE REMEDIAL OPTION*
- *CONTINUING SOURCES AND RECONTAMINATION*

FFS PROCESS RAISES SUBSTANTIAL POLICY CONCERNS



PRESUMPTIVE REMEDY TOOL

- FFS PROCESS INTENDED AS A REMOVAL AUTHORITY TOOL TO EXPEDITE PRESUMPTIVE REMEDIES OR INTERIM ACTIONS
- IMPROPER FOR MEGA SEDIMENT SITE REMEDIES

INCONSISTENT WITH EPA GUIDANCE

- FFS REMEDY INCONSISTENT WITH EPA GUIDANCE BECAUSE IT MAY FORECLOSE SELECTION OF TARGETED REMEDIES BASED ON RI/FS
- EPA SHOULD CONSIDER MONITORED NATURAL RECOVERY AT SEDIMENT SITES IN COMBINATION WITH TARGETED REMEDIES AND INSTITUTIONAL CONTROLS TO ASSESS BOTH RISK REDUCTION AND COSTS

FFS PROCESS LEADS TO FLAWED REMEDY SELECTION

V&E

INADEQUATE REMEDY EVALUATION

- INADEQUATE CONSIDERATION OF MONITORED NATURAL RECOVERY ABILITY TO MEET RISK-BASED GOALS
- TARGETED REMEDIES, INCLUDING MONITORED NATURAL RECOVERY, AND FOCUSED DREDGING WITH CAPPING, NOT FULLY EVALUATED

REMEDY SHOULD EMPLOY CAD

EPA SHOULD SELECT THE LEAST COSTLY, LEAST DISRUPTIVE ALTERNATIVE:

- FACILITATE PLACEMENT OF DREDGED MATERIALS IN A CONFINED AQUATIC DISPOSAL (“CAD”) FACILITY

FFS PROCESS LEADS TO FLAWED REMEDY SELECTION



SEDIMENT RESUSPENSION RISKS

- REMEDIAL ALTERNATIVES THAT RELY PRIMARILY ON DREDGING HAVE DEMONSTRATED EFFECTS OF SEDIMENT RESUSPENSION
- TIMEFRAME FOR REACHING ACCEPTABLE RISKS CAN BE DECADES

QUESTIONABLE PUBLIC POLICY

- POOR PUBLIC POLICY TO REQUIRE EXPENDITURE OF BILLIONS OF DOLLARS WHEN A FAR LESS COSTLY REMEDY COULD ULTIMATELY ACHIEVE SIMILAR RISK REDUCTION OVER TIME

PASSAIC RIVER IS A DISTINCT CERCLA FACILITY

- 10 ACRE DIAMOND ALKALI SITE SCORED AND LISTED
- SITE IS NOW OVER 120 SQ MILES, 2 MAJOR WATER BODIES, TRIBUTARIES AND FLOOD PLAINS
- NO PUBLIC PARTICIPATION
- PASSAIC RIVER SHOULD BE SCORED AND PROPOSED FOR LISTING ON THE NPL

Site listing

V&E

DIAMOND ALKALI SITE (as defined by EPA Region 2)

GEOGRAPHIC:

- 1) Lower Passaic Restoration Project Study Area – 110+ Sq. Miles
- 2) Newark Bay Study Area – 10+ Sq. Miles
- 3) Former Diamond Alkali Facility – 10 Acres

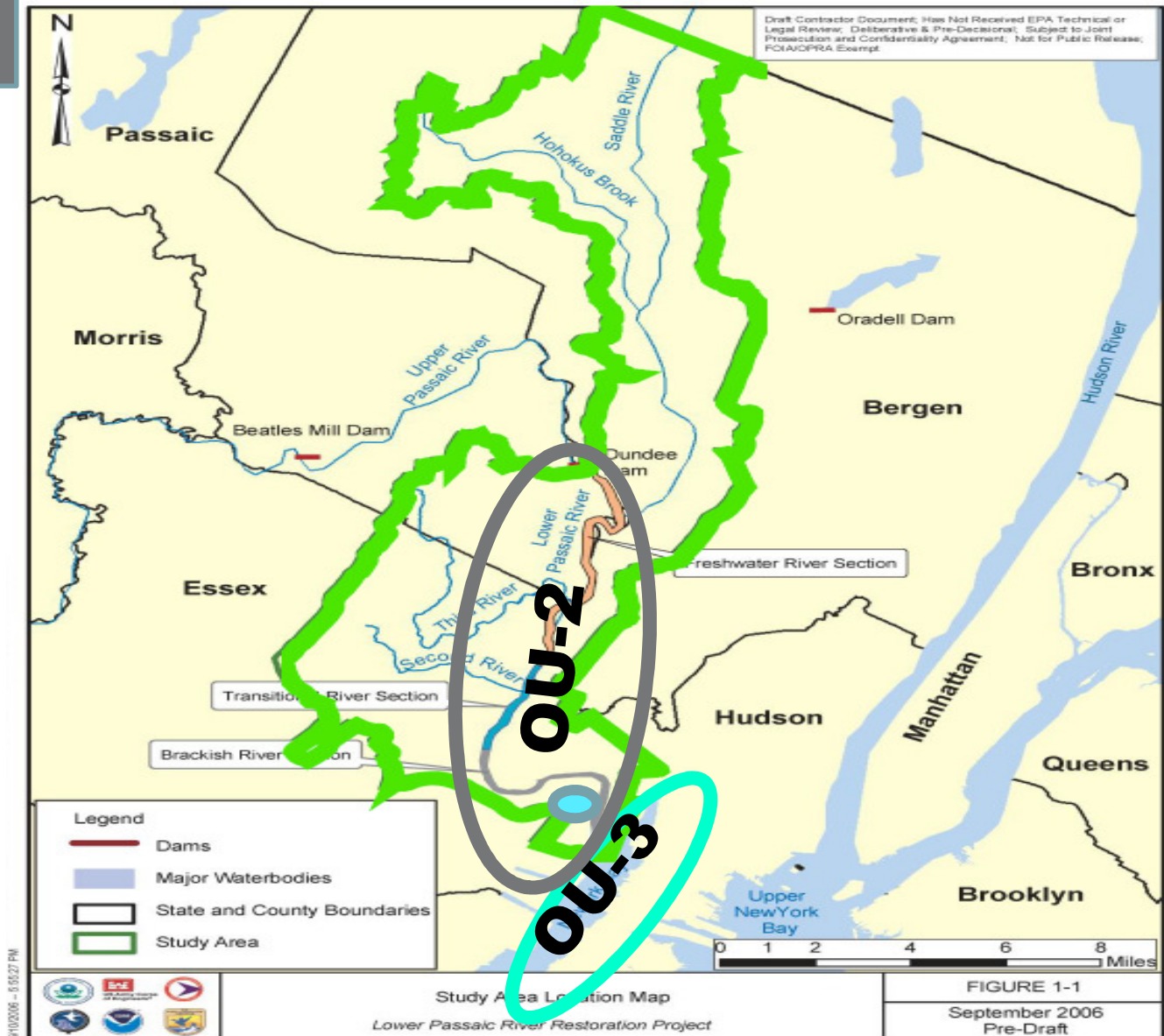
OPERABLE UNITS:

OU-1
Diamond Facility

OU-2
Lower Passaic

OU-3
Newark Bay Study

OU-4
Extended Passaic



- ❑ WITHHOLD ISSUANCE OF THE FFS/PROPOSED PLAN UNTIL RI/FS COMPLETED
- ❑ ALTERNATIVELY, IF FFS/PROPOSED PLAN DOES ISSUE:
 - CAD SHOULD BE UTILIZED, NOT OFFSITE DISPOSAL
 - WITHHOLD ROD ISSUANCE UNTIL RI/FS COMPLETED